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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,673	07/26/2005	Matthias Dammers	3988-045995	9744

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EXAMINER

TRUONG, THANH K

ART UNIT	PAPER NUMBER
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3721

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/520,673

Applicant(s)

DAMMERS ET AL.

Examiner

Thanh K. Truong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-25 is/are pending in the application.
- 4a) Of the above claim(s) 17-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10-31-05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

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DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I, claims 12-16 in the reply filed on November 7, 2006 is acknowledged. The traversal is on the ground(s) that:

"... since all of the claims include common subject matter relating to a container with a reclosable pouring element, searches directed to the claims of either Group would clearly overlap each other. Such co-extensive searching would not present any undue burden on the Examiner for examination of the claims. Furthermore, the Examiner handling the international application (PCT/EP2003/007338) believed unity of invention to exist and conducted a search on a similar set of claims. Accordingly, restriction of the claims between the allegedly distinct inventions embodied by these two species is inappropriate".

This is not found persuasive because, as stated in the previous office action (mailed October 5, 2006), the inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the technical feature(s) of one group is (are) not required (or lacking) in the other group(s).

Regarding the decision made by the Examiner handling the international application (PCT/EP2003/007338), as mentioned by the Applicant, the examiner maintains that the requirement for the restriction is accorded under PCT Rule 13.1.

The requirement is still deemed proper and is therefore made **FINAL**.

2. Claims 17-25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

3. Applicant's cancellation of claims 1-11 is acknowledged.

Specification

4. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a **separate sheet** is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 12-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 12 recites the limitation "the pouring element" on lines 5, 6, 11, 12, 14 and 15. There is insufficient antecedent basis for this limitation in the claim.

8. Similarly, the recitations of "the pouring element" in claims 13, 15 and 16 are indefinite for the same reason. It is suggested that the phrase "the reclosable pouring element" should be used instead to correct the 112 issues in these claims.

9. Claim 13, the recitation "wherein the closure film is sealed on" on lines 1 and 2 is vague and indefinite, because it is unclear where is the closure film sealed on.

10. Similarly, claim 13, the recitation "applying the pouring element" on line 2 is vague and indefinite, because there is no step of "applying the pouring element" recited in the independent claim 12. It is suggested that the phrase "connecting the reclosable

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pouring element to the lid of the container” should be used instead to correct the 112 issues in this claim.

11. Claim 14, the recitation “wherein the section of the closure film is sealed laterally on the threaded ferrule” on lines 1 and 2 is vague and indefinite, because the Applicant’s disclosure (specification and drawings) indicated that the closure film (9) is sealed on the unthreaded region (“thread-free region 7”) of the reclosable pouring element.

Allowable Subject Matter

12. Claim 12 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

13. Claims 13-16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

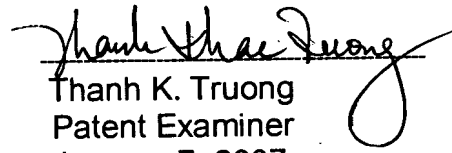
Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K. Truong whose telephone number is 571-272-4472. The examiner can normally be reached on Mon-Thru 8:00AM - 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Thanh K. Truong
Patent Examiner
January 7, 2007.